

Application No.: 10/647,737

Docket No.: 05542/073001

**REMARKS**

Please reconsider the application in view of the above amendments and the following remarks. Applicant thanks the Examiner for carefully considering this application.

**Claim Amendments**

Claims 1-20 have been cancelled by this reply. Claim 21 has been added to more clearly recite the invention. Support for the claim limitations may be found at least in the embodiments disclosed in the specification. No new matter has been added.

**Rejection(s) under 35 U.S.C. § 112**

Claims 1, 3-9, 11-17, and 20 stand rejected under 35 U.S.C. § 112, ¶ 2 as being indefinite. As claims 1, 3-9, 11-17, and 20 have been cancelled by this reply, this rejection is now moot. Withdrawal of this rejection is respectfully requested.

**Rejection Under 35 U.S.C. §102(b)**

Claims 1, and 3-6 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 2,994,660 ("Reddie"). As claims 1 and 3-6 have been cancelled by this reply, this rejection is now moot.

Claims 1, 3-6, 9, 11-14, 17, 19-20 stand rejected under 35 U.S.C. § 102(b) as being anticipated by WO 89/11516. As claims 1 3-6, 9, 11-14, 17, 19-20 have been cancelled by this reply, this rejection is now moot.

Claims 1, 3-7, 9, 11-15, 17, and 19-20 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S Patent No. 4,941,983 issued to Coates. As claims 1, 3-7, 9, 11-15, 17, and 19-20 have been cancelled by this reply, this rejection is now moot.

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Claims 1 and 3-4 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,728,277 issued to Foley. As claims 1 and 3-4 have been cancelled by this reply, this rejection is now moot.

To the extent that these rejections still apply to newly added claim 21, these rejections are all traversed.

Claim 21 recites a drilling fluid that includes, *inter alia*, a rheology modifier, wherein the rheology modifier is a mixture of C<sub>12</sub> to C<sub>22</sub> poly-carboxylic fatty acids, including at least a dimer poly-carboxylic C<sub>12</sub> to C<sub>22</sub> fatty acid, and a trimer poly-carboxylic C<sub>12</sub> to C<sub>22</sub> fatty acid, wherein the mixture of poly-carboxylic fatty acids is added in sufficient concentration so that the trimeric poly-carboxylic fatty acid concentration in the drilling fluid is greater than 0.1 pounds per barrel and is up to 5.0 pounds per barrel.

Applicant respectfully asserts that none of Reddie, WO 89/11516, Coates, and Foley discloses or suggests each and every limitation of claim 21. Under Federal Circuit precedent, a rejection under 35 U.S.C. §102(b) is improper when the cited reference does not contain each and every element of the rejected claim. *See Brown v. 3M*, 265 F.3d 1349, 1351 (Fed. Cir. 2001). Specifically, Reddie, WO 89/11516, Coates, and Foley all fail to disclose the specific limitation that the mixture of poly-carboxylic be acids added in sufficient concentration so that the *trimeric* polycarboxylic fatty acid concentration in the drilling fluid is greater than 0.1 pounds per barrel and is up to 5.0 pounds per barrel. Reddie, WO 89/11516, Coates, and Foley is silent on controlling the concentration of the trimeric species, as recited in the instant claims. Therefore, claim 21 is patentable in view of each of Reddie, WO 89/11516, Coates, and Foley.

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Rejection(s) under 35 U.S.C. § 103

Claims 9, 11-14, 17, and 19-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Reddie in view of WO 89/11516. As claims 9, 11-14, 17, and 19-20 have been cancelled by this reply, this rejection is now moot.

Claims 1, 7-9 and 15-16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Foley, in view of Reddie and WO 89/11516. As claims 1, 7-9 and 15-16 have been cancelled by this reply, this rejection is now moot.

To the extent that these rejections still apply to newly added claim 21, these rejections are all traversed.

Claim 21 recites a drilling fluid that includes, *inter alia*, a rheology modifier, wherein the rheology modifier is a mixture of C<sub>12</sub> to C<sub>22</sub> poly-carboxylic fatty acids, including at least a dimer poly-carboxylic C<sub>12</sub> to C<sub>22</sub> fatty acid, and a trimer poly-carboxylic C<sub>12</sub> to C<sub>22</sub> fatty acid, wherein the mixture of poly-carboxylic fatty acids is added in sufficient concentration so that the trimeric poly-carboxylic fatty acid concentration in the drilling fluid is greater than 0.1 pounds per barrel and is up to 5.0 pounds per barrel.

Applicant respectfully asserts that none of Reddie, WO 89/11516, Coates, and Foley, whether considered separately or in combination, shows or suggests each and every limitation of claim 21. Specifically, Reddie, WO 89/11516, Coates, and Foley all fail to show or suggest the specific limitation that the mixture of poly-carboxylic acids be added in sufficient concentration so that the *trimeric* polycarboxylic fatty acid concentration in the drilling fluid is greater than 0.1 pounds per barrel and is up to 5.0 pounds per barrel. Thus, because Reddie, WO 89/11516, Coates, and Foley are all silent on controlling the concentration of the trimeric

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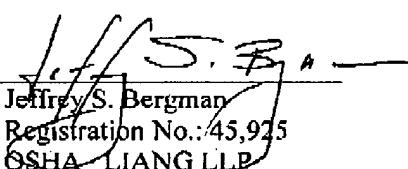
species, as recited in claim 21, claim 21 is patentable in view of each of Reddie, WO 89/11516, Coates, and Foley, whether considered separately or in combination.

Applicant believes this reply is fully responsive to all outstanding issues and places this application in condition for allowance. If this belief is incorrect, or other issues arise, the Examiner is encouraged to contact the undersigned or his associates at the telephone number listed below. Please apply any charges not covered, or any credits, to Deposit Account 50-0591 (Reference Number 05542/073001).

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Respectfully submitted,

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Attachments